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09/856,904	08/29/2001	Ulrika Hagrud	000500-299	5309

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/856,904

Applicant(s)

HAGRUD, ULRIKA

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 1, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 1 recites the limitation "the laminate" in lines 9, 13, and 16. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the sheets" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the two sheets" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the sheet-joining regions" in lines 15-16. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "said laminate" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the laminate bonding regions" in lines 19-20. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "each group" in line 20. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the laminate" in line 24. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the superabsorbent" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 3 recites the broad recitation

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3.5-4.9, and the claim also recites 4.1-4.7 which is the narrower statement of the range/limitation.

Claim 4 recites the limitation "the laminate bonding locations" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynard et al. (WO 98/27904) in view of Meierhoefer (4,104,214).

Lynard discloses all aspects of the claimed invention but remains silent as to the type of superabsorbent material comprising the absorbent body. Lynard discloses an absorbent article 20, as shown in figure 1, comprising a liquid impermeable backing sheet 40, an absorbent body 42, and a top sheet 38. The top sheet 38 comprises a liquid permeable, fibrous sheet of material, including thermoplastic material, as described on page 7, lines 4-11. A liquid transfer sheet 44 is located between the top sheet 38 and the absorbent body 42, as shown in figure 2. The liquid transfer sheet 44 comprises a liquid permeable, porous and resilient sheet of material, as described on page 8, lines 25-38. The top sheet 38 and liquid transfer sheet 44 are fused together at bonding locations 52 to form a laminate, as described on page 10, line 30-31. The

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absorbent body 42 comprises superabsorbent material, as described on page 14, lines 27-28.

Meierhoefer discloses a superabsorbent material for use as the absorbent body of an absorbent article, as described in column 7, lines 18-23. The superabsorbent material is partially neutralized, as described in column 3, lines 8-13. The superabsorbent has a pH of about 5 to 7.5, as described in column 3, lines 64-66, so as not to cause irritation to the wearer of the absorbent article, as described in column 3, lines 54-60.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent body of Lynard with the partially neutralized superabsorbent material of Meierhoefer so the absorbent body will not cause irritation to the wearer.

With respect to claim 2, the bonding locations 52 are grouped into lines, the space between the bonding locations 52 of a group being less than the space between the bonding locations 52 of a neighboring group, as shown in figure 1.

With respect to claim 3, the absorbent body has a pH of between about 5 and 7.5, as described by Meierhoefer in column 3, lines 64-66.

With respect to claim 4, the bonding locations 52 are circular bonds, as shown in figure 1.

With respect to claim 5, the top sheet 38 has through-penetrating holes within the bonding locations, as shown in figure 2.

With respect to claim 6, the top sheet 38 is comprised of a nonwoven material, as described on page 7, lines 4-5.

With respect to claim 7, Lynard fails to disclose the type of nonwoven material that may be used to construct the top sheet 38. It would have been an obvious matter of design choice to construct the top sheet from a carded, thermobonded nonwoven material, as the applicant has not shown that this type of nonwoven serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with other nonwoven materials.

With respect to claim 8, Lynard discloses the absorbent article 20 as being 3mm thick on page 6, lines 16-20. According to the cross section of figure 2, the liquid transfer sheet 44 is therefore about 0.6 mm thick. Lynard further discloses the absorbent article 20 as being thicker than 3 mm, and the liquid transfer sheet 44 would therefore be thicker as well.

With respect to claims 9 and 10, the bonding locations 52 are arranged in mutually adjacent groups forming lines. The distance between the bonding locations 52 within a line (y) is about 1 mm, as measured in figure 1, and the distance between the bonding locations 52 in adjacent lines (x) is about 2 mm, giving an x/y ratio of 2/1.

With respect to claim 11, the bonding locations 52 are about 1.5 mm in diameter, as described on page 11, lines 26-27. According to figure 1, the distance between the bonding locations 52 within a line (y) is about 1.5 mm, and the distance between bonding locations 52 in adjacent lines (x) is about 3 mm. It would have been an obvious matter of design choice to make the distance between bonding locations within a group

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1 mm, as the applicant has not shown that this distance serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with a distance of 1.5 mm between bonding locations.

***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,950,264 pertains to an absorbent article comprising partially neutralized superabsorbent material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, Primary Examiner Dennis Ruhl can be reached on (703) 308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

*CLA*  
cla  
June 6, 2002

  
GLENN K. DAWSON  
PRIMARY EXAMINER